

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT NASHVILLE

Assigned on Briefs April 25, 2007

**STATE OF TENNESSEE v. GRADY WAYNE MEALER**

**Direct Appeal from the Circuit Court for Marshall County  
No. 16720 Robert Crigler, Judge**

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**No. M2006-01978-CCA-R3-CD - Filed July 13, 2007**

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A Marshall County Circuit Court jury convicted the appellant, Grady Wayne Mealer, of burglary and two counts of theft of property valued more than one thousand dollars but less than ten thousand dollars, all Class D felonies. The trial court merged the theft convictions, and the appellant agreed to an effective twelve-year sentence to be served at sixty percent and consecutively to any previous sentences. On appeal, the appellant contends that the evidence is insufficient to support the convictions. Based upon the record and the parties' briefs, we affirm the judgments of the trial court.

**Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Circuit Court are Affirmed.**

NORMA MCGEE OGLE, J., delivered the opinion of the court, in which JERRY L. SMITH and D. KELLY THOMAS, JR., JJ., joined.

Michael J. Collins, Shelbyville, Tennessee, for the appellant, Grady Wayne Mealer.

Robert E. Cooper, Jr., Attorney General and Reporter; Renee W. Turner, Assistant Attorney General; W. Michael McCown, District Attorney General; and Weakley E. Barnard and Brooke Grubb, Assistant District Attorneys General, for the appellee, State of Tennessee.

**OPINION**

**I. Factual Background**

George "Bill" Scott testified that he lived at 2980 Anes Station Road in Marshall County. About May 18, 2005, Scott, his wife, his daughter, and his son-in-law traveled to Macon, Georgia to attend a high school graduation. The family had planned to be gone for one week but decided to return home early. About 4:00 p.m. on May 22, the Scotts pulled into their driveway. Bill Scott's wife went inside while he sat outside to rest. He stated that he had a workshop about one hundred fifty feet from his house and that he would work on cars and other vehicles in the shop. The shop had two car bays, and each bay had a sliding door that could be raised. Scott kept hand tools, welders, cutting torches, sockets, wrenches, and grinders in the shop. He stated that the shop and

its bay doors were locked when he and his family left for their trip to Georgia.

Scott testified that his wife came outside and sat with him. While they were sitting outside, Scott thought he saw someone go into his shop's second car bay. He and his wife walked over to the shop and saw that one of the bay doors was raised. Scott saw the appellant, who Scott had known since the appellant was a baby, "climbing over some stuff [and] toting tool boxes." Scott asked the appellant what he was doing, and the appellant said he had come to get the tools for Bill Scott. Scott told the appellant, "I am Bill Scott. You know better than that, Grady." The appellant admitted he had lied to Scott and said, "I come to get them for my brother Cleborn. He said they was his." Scott told the appellant to put the tools back in the shop, and the appellant put the tools in the first car bay. Scott told his wife to telephone the police, and the appellant said he was not going back to jail. The appellant went to his car and opened the door. Scott stopped neighbor Jimmy Richardson, who had been driving by, and asked Richardson for help. Richardson told the appellant that the appellant was not leaving, the appellant shoved Richardson, and Richardson fell backward. The appellant jumped into his car as Scott's daughter and son-in-law pulled into the driveway.

Bill Scott testified that as the appellant began to drive away, Jimmy Richardson reached into the appellant's car window, and the appellant dragged Richardson about twenty or twenty-five feet before Richardson was able to get out of the car. Scott and his daughter got into his truck and followed the appellant. Scott stated that he sometimes had to drive ninety to one hundred miles per hour to keep up with the appellant and that he chased the appellant for ten to fifteen miles to the appellant's father's property. When the appellant got to the property, he jumped out of the car and ran into the woods. A patrol car pulled up to the property and officers shined lights into the woods, but they could not find the appellant. Scott returned home to check on his tools and discovered that the appellant had put twelve to fifteen thousand dollars worth of tools into buckets and had brought the buckets outside. He stated that over one thousand dollars worth of tools were missing, including a socket set, ratchets, three tool boxes containing tools, and grinders. He said that lamps with three large owls on them were also missing and that the lamps were later found in the trunk of the appellant's car. He stated that the appellant had entered the shop by kicking loose a piece of plywood over a trap door.

On cross-examination, Scott testified that when he and his wife returned home that afternoon, the bay doors to the shop were closed. After the appellant jumped out of his car and ran into the woods, Scott did not look into the appellant's car because the officers told him to stay back. He said he did not know if any tools were in the appellant's car.

Lorene Scott, Bill Scott's wife, testified that on the afternoon of May 22, her husband drew her attention to something, and they walked from their house to his shop. When they got to the shop, the appellant was walking out with two tool boxes in his hands. The appellant told Bill Scott, "Bill Scott sent me here to get these tools." Bill Scott told the appellant, "Well, I am Bill Scott." The appellant then said that his brother Cleborn had sent him. Bill Scott told the appellant that the tools did not belong to Cleborn, and he told his wife to "call the law." The appellant got into his car to leave, and Bill Scott stopped Jimmy Richardson for help. Richardson tried to hold the appellant, but

the appellant fled, and Bill Scott and his daughter chased the appellant. Later, Bill Scott and his wife inspected the shop. They found tools piled up at the door, and it took them one or two days to put the tools back in their place.

Emma Jean Scott Pugh, Bill and Lorene Scott's daughter, testified that she lived two houses away from her parents. On May 22, Pugh and her husband dropped off the Scotts at their home, and the Pughs drove to their own home to unload their car. They then returned to the Scotts' house, and Emma Pugh saw her parents and the appellant coming out of her father's garage. Bill Scott tossed his daughter a cellular telephone and told her to call the police because the appellant was trying to rob him. The appellant tried to get into his car, which he had parked at the bottom of a hill next to the shop, but Bill Scott shut the car door and told the appellant he was not going anywhere until the police arrived. Jimmy Richardson drove by, and Bill Scott asked him to help prevent the appellant from leaving. The appellant pushed Richardson and jumped into his car, and Richardson reached into the window to try to take the appellant's keys out of the ignition. The appellant drove away, dragging Richardson twenty-five to thirty feet. Bill Scott and his daughter got into a truck and chased the appellant to the Mealer property, where the appellant ran into the woods.

Jimmy Richardson testified that he lived about one mile from the Scotts. On May 22, 2005, he rode by the Scotts' house, and Bill Scott stopped him and said, "He's robbing me." Richardson told the appellant to stop, but the appellant started his car engine. Richardson told the appellant that "you're not leaving" and tried to grab the key out of the ignition. However, Richardson's arm got caught in the window, and the appellant dragged him "a little ways." Richardson stated that the appellant's sister lived about one and one-half miles from the Scotts.

Investigator Jimmy Oliver testified that on May 22, 2005, he was a deputy with the Marshall County Sheriff's Department and responded to a call that originated from Anes Station Road. In response to the call, Investigator Oliver drove to Farmington Belfast Road and stopped at the Mealer property. He spoke to Bill Scott, who stated that the appellant had fled into the woods. Investigator Oliver and another officer searched the property but could not find the appellant. Investigator Oliver saw "some owl lamps" in the appellant's car and talked with the appellant's sister. On cross-examination, Investigator Oliver testified that he did not see any tools in the car and that he never inventoried the car. He said Lorene Scott told him the owl lamps were hers.

Minnie Mae Myatt, the appellant's sister, testified for the appellant that on May 22, she learned about the incident between Bill Scott and the appellant and went to her father's property. When she arrived, Bill Scott and Investigator Oliver were there. Myatt's car was also there, and Investigator Oliver helped Myatt take the battery out of the car. Investigator Oliver told Myatt that he did not find anything in the car and asked Bill Scott if anything in the car belonged to Scott. Bill Scott told Investigator Oliver, "[N]o. Nothing was taken." The jury convicted the appellant of burglary and two counts of theft of property. The trial court merged the theft convictions, and the appellant agreed to an effective twelve-year sentence to be served at sixty percent.

## II. Analysis

The appellant contends that the evidence is insufficient to support the convictions. Regarding the burglary conviction, the appellant argues that the evidence does not support the conviction because although he rearranged the tools, he did not steal any property out of the shop. He contends that he also is not guilty of theft because Minnie Myatt heard Bill Scott tell Investigator Oliver that none of his property was taken. The State contends that the evidence is sufficient. We agree with the State.

When an appellant challenges the sufficiency of the convicting evidence, the standard for review by an appellate court is “whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” Jackson v. Virginia, 443 U.S. 307, 319, 99 S. Ct. 2781, 2789 (1979); Tenn. R. App. P. 13(e). The State is entitled to the strongest legitimate view of the evidence and all reasonable or legitimate inferences which may be drawn therefrom. State v. Cabbage, 571 S.W.2d 832, 835 (Tenn. 1978). Questions concerning the credibility of witnesses and the weight and value to be afforded the evidence, as well as all factual issues raised by the evidence, are resolved by the trier of fact. State v. Bland, 958 S.W.2d 651, 659 (Tenn. 1997). This court will not reweigh or reevaluate the evidence, nor will this court substitute its inferences drawn from the circumstantial evidence for those inferences drawn by the jury. Id. Because a jury conviction removes the presumption of innocence with which a defendant is initially cloaked at trial and replaces it on appeal with one of guilt, a convicted defendant has the burden of demonstrating to this court that the evidence is insufficient. State v. Tuggle, 639 S.W.2d 913, 914 (Tenn. 1982).

As charged in the indictment, a person is guilty of burglary “who, without the effective consent of the property owner . . . [e]nters a building other than a habitation (or any portion thereof) not open to the public, with intent to commit . . . theft.” Tenn. Code Ann. § 39-14-402(a)(1). The appellant also was charged with theft, which occurs when a person “with intent to deprive the owner of property, the person knowingly obtains or exercised control over the property without the owner’s effective consent.” Tenn. Code Ann. § 39-14-103.

In this case, the evidence established that the appellant entered Bill Scott’s workshop, gathered tools, and began to walk out of the building with them. When Scott confronted the appellant, the appellant put the tools back in the shop and fled in his car. Scott chased the appellant to the appellant’s father’s property, and the appellant fled into the woods. Scott said that when he returned to his shop, he discovered that over one thousand dollars worth of tools and some owl lamps were missing. Investigator Oliver saw the lamps in the appellant’s car, and Lorene Scott told Investigator Oliver that the lamps were hers. Although the appellant’s sister testified that she heard Bill Scott tell Investigator Oliver nothing had been taken from the shop, the jury obviously accredited the State’s witnesses, which was the jury’s prerogative. The evidence is more than sufficient to show that the appellant broke into the shop with the intent to steal Scott’s property and that he took tools and the owl lamps.

### **III. Conclusion**

Based upon the record and the parties' briefs, we affirm the judgments of the trial court

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NORMA McGEE OGLE, JUDGE